



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/585,864

07/11/2006

Patrick Dawson Bailey

BJS-39-326

7738

23117

7590

06/19/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

NIEBAUER, RONALD T

ART UNIT

PAPER NUMBER

1654

MAIL DATE

DELIVERY MODE

06/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10585864	7/11/2006	BAILEY, PATRICK DAWSON	BJS-39-326

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

RONALD T. NIEBAUER

ART UNIT	PAPER
----------	-------

1654	20090610
------	----------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on 4/13/09 is not fully responsive to the prior restriction requirement because of the following omission(s) or matter(s): while applicant has elected a unique species for the compound and drug, it remains unclear how the compound and drug are conjugated together. It is noted that a telephone call was made to applicants representative to clarify the election at which time the call was sent to the answering machine. Since it is difficult to clarify the election via phone messages the examiner proceeded with this notification in writing. On 4/13/09 applicants state that R4 is CH₂COOH. Applicants state that the drug (Lorazepam) is conjugated to the COOH side chain group on the aspartic acid residue. As such, it is unclear if R4 is CH₂COOH or if R4 is an ester conjugated to Lorazepam. Further, it is unclear where it is conjugated to Lorazepam. Applicants state that claim 6 reads on the elected species. However, if the drug is conjugated to the side chain group then the residue at that position is not as recited in claim 6. Since the elected species remains unclear it is suggested that applicants provide a chemical structural representation of the elected species and identify which claims read on the elected species to avoid any further confusion or delays. Applicant is to elect a single species such that the identity of the species is clear. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald T. Niebauer whose telephone number is 571-270-3059. The examiner can normally be reached on Monday-Thursday, 7:30am-5:00pm, alt. Friday, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached at 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald T Niebauer/
Examiner, Art Unit 1654

/Anish Gupta/
Primary Examiner, Art Unit 1654